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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/509,783 | 09/29/2004 | Robert Kamphuis | 915-006.052 | 7689 |

4955 7590 10/31/2006

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EXAMINER

DOAN, KIET M

ART UNIT PAPER NUMBER

2617

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | |
|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/509,783 | | KAMPHUIS, ROBERT | |
| | Examiner | | Art Unit | |
| | Kiet Doan | | 2617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/29/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 08/18/2006 has been entered.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It is noted that computer programs or computer program products do not define any structural and functional interrelationships between computer program and other claimed elements of computer which permit the computer program's functionality to be realized. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Regarding claim 8-9, line 1 the phrase "Computer program" examiner suggest change to "Computer readable medium program". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Lorello et al. (Patent No. 6,459,904).

Consider **claims 1, 8, 10, 12, 14, 16**. Lorello teaches method comprising:

a service center providing a querying to a short message service center in a cellular network for obtaining attainability status of a mobile terminal device in order to determine whether to deliver a communication to said mobile terminal device,

said short message service center responding to the query by evaluating connection related data stored in said short message service center, wherein said connection related data is related to messages pending for delivery to said mobile terminal device, and

delivering said communication to said mobile terminal device in accordance with said attainability status (Abstract, C3, L14-32, C4, L1-58, C8, L41-46 and C9, L8-67, C10, L10-36, Fig.1 and Fig.7 illustrate a short message service center communicated with MSC and HLR wherein the HLR evaluating connection or condition or attainability status related data and inform the available of mobile/subscriber to

SMSC and finally the delivery short message/communication to said mobile terminal device. Further the SMCS include a controller No.126 which read on computer).

Consider claims 2, 11, 13, 15, 17. Lorello teaches method according to claim 1, wherein in response to said query to said short message service center, the short message service center queries a home location register of the cellular communication network for an attainability status of said mobile terminal device and wherein said attainability status is obtained by evaluating connection related data stored in said home location register (C3, L14-28, C4, L7-58, Fig.1 Illustrate HLR No.102 wherein data stored in said HLR and determine the an attainability status of said mobile terminal device).

Consider **claims 3-5**. Lorello teaches method according to claim 1, wherein said connection related data are indicative of a connection state of said mobile terminal device (C4, L4-54 teach delivery message to subscriber means as indicative of a connection).

Consider **claim 6**. Lorello teaches method according to claim 1, wherein said query to said short message service center comprise short message delivery to said short message service center, said short message being destined for said mobile terminal device (C3, L59-67, C4, L1-24, Fig.1, Illustrate and described).

Consider **claim 7**. Lorello teaches software tool for determining attainability status of said mobile terminal device in a cellular communication network having short message service center for subsequently executing a communication with the mobile terminal device in accordance with the attainability status of said mobile terminal device, comprising program code means for carrying out the method of claim 1 wherein said software tool is implemented in a program on the short message service center or a network device (C9, L10-67, C10, L25-36, Fig1 and Fig.7, Illustrate and described).

Consider **claim 9**. Lorello teaches computer program product comprising program code means stored on a computer readable medium for carrying out the method of claims 1, wherein said program product is configured to run on a short message service center, a service center or a network device (C9, L10-35).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiet Doan whose telephone number is 571-272-7863. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kiet Doan
Patent Examiner



GEORGE ENG
SUPERVISORY PATENT EXAMINER